

U.S. Department of Energy Office of Legacy Management



Procedure: 513.1

Effective: 3/17/06

SUBJECT: FREEDOM OF INFORMATION ACT AND PRIVACY ACT RECORDS

1. PURPOSE. To ensure U.S. Department of Energy (DOE) Office of Legacy Management (LM) personnel properly respond to requests for information made under the Freedom of Information Act (FOIA) and Privacy Act (PA).
2. CANCELLATION. None
3. REFERENCES.
 - a. *5 United States Code (U.S.C.) 552, Freedom of Information Act*
 - b. *5 U.S.C. 552a, Privacy Act*
 - c. *10 Code of Federal Regulations (CFR) Part 1004, Freedom of Information, DOE Guidance*
 - d. *10 CFR Part 1008, Records Maintained on Individuals (Privacy Act), DOE Guidance*
 - e. *U.S. Department of Justice Freedom of Information Act Guide, May 2004*
 - f. *U.S. Department of Justice Overview of the Privacy Act of 1974, May 2004*
 - g. *DOE Administrative Records Schedule 14: Informational Services Records, N1-434-98-17*

4. DEFINITIONS.

- a. Exemptions -- 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records described in that section. These categories include national defense and foreign policy information; investigatory records; internal procedures and communications; materials exempted from disclosure by other statutes; confidential, commercial, and financial information; and matters involving personal privacy.
- b. File -- For Privacy Act purposes, file refers to a set of record material containing employment, medical, radiological, or related information.
- c. Freedom of Information Act (FOIA) -- Law enacted in 1966 and codified at 5 U.S.C. 552. The basic purpose of the law is to ensure an informed citizenry in order to hold the Government accountable.
- d. Privacy Act (PA) -- Provides safeguards against unwarranted invasions of privacy through the misuse of records by Federal agencies by restricting disclosure of personally identifiable records maintained by agencies; granting individuals increased rights of access to records maintained about them; granting individuals the right to seek amendment of records maintained about them upon a showing that the records are not accurate, relevant, timely or complete; and establishing a code of "fair information practices" that requires agencies to comply with statutory norms for record collection, maintenance, use, and dissemination.
- e. Privacy Act Review -- A review performed to ensure personal information is not distributed or released to individuals who do not have a need or right to access that information.
- f. Search -- For the purposes of this procedure, a review, manually or by automated means, of agency records to locate records that are responsive to a request.

5. QUALITY CONTROL.

- a. The FOIA requires the government to respond to requests for information within 20 working days after receipt of the request.
- b. Requests are tracked from receipt through response to requester.
- c. Extensions are requested, as required, to search, discover, and produce the requested documentation/information.
- d. Metrics shall be maintained to track process flow and ensure accountability for fulfillment of requests in a timely manner.

- e. LM FOIA/PA records will be maintained in accordance with the DOE Administrative Records Schedule 14: Informational Services Records, N1-434-98-17.
- f. Periodic reviews will be conducted to ensure compliance with established policy.
- g. New records may not be created as part of a response to a request.
- h. The LM FOIA Contact has all FOIA/PA requests logged into and tracked in the Document Online Login System (DOL).

6. RESPONSIBILITIES.

a. The DOE FOIA Office:

- (1) Administers the FOIA program for DOE.
- (2) Prepares final responses to requesters based on the responses submitted by the LM Program Office.

b. LM Program Offices:

- (1) Conduct searches, review responsive documents, and provide recommendations on the release of all responsive documents.
- (2) Notify the LM Records Contact of any documentation created under this procedure.

c. The LM FOIA/PA Contact:

- (1) Manages the coordination of requests assigned to LM, and responds with results to the requester.
- (2) Assigns, monitors, and closes out FOIA requests received by LM.
- (3) Prepares the annual FOIA report submission for LM.
- (4) Determines whether the requester must reimburse the Government for costs incurred for FOIA/PA-related searches.

d. The LM FOIA/PA support staff is responsible for processing requests and searching for and producing responsive documents according to established procedures.

e. The Authorizing/Denying Official, under guidance of the General Counsel (GC), has custody and jurisdiction over the documents subject to a FOIA request. The

Authorizing/Denying Official certifies that (1) documents may be released in their entirety, (2) documents may be released in part, (3) documents or information is exempt of the FOIA, or (4) no documents exist that are responsive to a request. If the Authorizing/Denying Official is not available, the Director will serve as the Authorizing/Denying Official. In the absence of the Director, the Deputy Director will serve as the Authorizing/Denying Official.

- f. The Office of Stakeholder Relations (LM-5) handles all congressional inquiries.

7. TRAINING REQUIREMENTS.

- a. The LM FOIA/PA Contact shall be trained (Required Reading) and be familiar with the FOIA guide and Privacy Act overview published annually by the U.S. Department of Justice.
- b. The LM FOIA/PA Contact and designated FOIA/PA support staff shall attend refresher training in order to stay current with changes in the acts and remain current with DOE direction concerning FOIA/PA-related responses.

8. DOCUMENT CONTROL.

- a. This procedure shall be reviewed as necessary, and at least annually, by the LM FOIA/PA Contact and the Records Liaison Officer to accommodate changing conditions within LM and to ensure compliance with applicable laws, regulations, and DOE requirements.
- b. Personnel following this procedure will use the current version of the LM forms referenced in this procedure.

9. PROCEDURE.

- a. FOIA Requests

Attachment A. illustrates the FOIA request process.

- (1) The LM FOIA/PA Contact receives a FOIA request from the DOE FOIA Office. Within 24 hours of receiving the request, the LM FOIA/PA Contact:

- (a) Determines which LM program office should be assigned the request. If the LM FOIA/PA Contact determines that the request is not an LM action, the request is returned to the DOE FOIA Office with an explanation as to why LM is not the appropriate office to conduct the search, and, if possible, a recommendation concerning which government organization should receive the FOIA request.

- (b) Has the request logged and tracks it in the DOL system.
 - (c) Notes and records, where appropriate, the hourly rate at the current grade and step for any Federal employee completing work relating to the request.
 - (d) Routes the request to the responsible LM program office with a deadline appropriate to ensure timely response to the requester. The LM FOIA/PA Contact transmits the request using a standard memorandum that summarizes the requirements to appropriately handle FOIA/PA requests.
- (2) The LM FOIA/PA support staff:
- (a) Enters information about the request into the DOL system and records the FOIA request identifier.
 - (b) Initiates and scans LM Form 513.1, Freedom of Information Act/Privacy Act Request and Tracking and updates the form as each tracking activity is completed.
 - (c) Reviews the request to determine the scope of production. If it appears that the request is likely to generate a large volume of responsive documents, the FOIA/PA support staff notifies the LM FOIA/PA Contact.
 - (d) E-mails the request and imaged tracking form to the appropriate record holder departments or Records Management, which search for responsive documents. If records have been retired or stored at a Federal records facility or the Washington National Records Center in Suitland, Md., the FOIA/PA support staff is responsible for the search of these records. [Note: The cost to ship the records to and from the storage facility is not an expense chargeable to the requester.] If the documents have been transferred to the National Archives and Records Administration (NARA), the requester must contact NARA to obtain those documents.
 - (e) Receives responsive documents and identifies which documents fulfill the request.
 - (f) Copies responsive documents that fulfill the request, and returns original documents to the record holder departments or Records Management.
 - (g) Scans selected responsive documents and maintains them in a controlled system.

- (h) Prepares a chronological index of the responsive documents, beginning with the most recent document. This index is included with the response, along with the diskette or electronic attachment, in the following format:

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1. Letter to Audrey Smith, Contracts Manager, General Atomics, from Tony Bradley, Contract Specialist, Oakland Operations Office, dated August 28, 2000, Subject: Hot Cell D&D Waste Disposal Costs, Contract DE-AC03_95SF20798. 1 page (F2000-00788)
- (i) Identifies, using brackets [], any responsive documents on the record index or specific information contained in the responsive documents that should not be released. The appropriate FOIA exemptions or the Privacy Act is cited as justification for withholding such information.
- (j) Completes LM Form 513.2, Freedom of Information Act/Privacy Act Fee Computation where charges are incurred that the requester may be required to pay.
- (k) Submits the response package to the LM FOIA/PA Contact within three working days. The response package includes any responsive documents, the document index, and any forms generated to track request response or expenses. If responsive documents are not available by the due date, an extension must be requested from the LM FOIA/PA Contact.
- (3) The LM FOIA/PA Contact and Authorizing/Denying Official, under the guidance of GC, certify that:
- The documents may be released in their entirety;
 - Documents may be released in part;
 - Documents or information is exempt from disclosure under FOIA exemptions; or that
 - No documents responsive to the request exist. If the Authorizing/Denying Official is not available because of travel, leave, or other absence, the LM Director or Deputy Director becomes the Authorizing/Denying Official.

- (4) The LM FOIA/PA Contact:
 - (a) Creates a letter to the requester. The body of the letter should contain an explanation of any document category that was withheld and a citation of any appropriate exemptions.
 - (b) Reviews the final response for compliance with LM, FOIA, and Privacy Act requirements. The LM FOIA/PA Contact completes LM Form 513.3, Freedom of Information Act/Privacy Act Request for Certification.
 - (c) Makes copies of the final certified response package for the LM FOIA files.
 - (d) Sends the letter, any responsive documents, and related forms to the requester or to the DOE FOIA Office, as appropriate.
 - (e) Closes the action in the DOL system.

b. Privacy Act Requests

Attachment B. illustrates the Privacy Act request process.

A requester submits a request for personal records to DOE. The LM FOIA/PA Contact handles applicable requests.

- (1) The LM FOIA/PA Contact, upon officially receiving the request:
 - (a) Has the request logged and tracks it in the DOL system.
 - (b) Determines a due date.
 - (c) Sends the request to the appropriate LM Program Office. The LM FOIA/PA Contact transmits the request using a standard memorandum that summarizes the requirements to appropriately handle Privacy Act requests.
- (2) The LM FOIA/PA support staff:
 - (a) Enters the request information into DOL and records the Privacy Act request identifier.
 - (b) Initiates and images LM Form 513.1, Freedom of Information Act/Privacy Act Request and Tracking and updates the form as each tracking activity is completed.

- (c) Determines if personal records are active or inactive.
 - If personal records are active, e-mails the request and imaged tracking form to the appropriate departments (e.g., medical, radiological records, Human Resources).
 - If personal records are inactive, searches the Records Management database, appropriate finding aids, and previously imaged records and also requests files from Records Management or record holder departments.
- (d) Receives files from Records Management or record holder departments.
- (e) Requests an extension from the LM FOIA/PA Contact if responsive files are not received by the due date.
- (f) Prepares a chronological index listing the responsive documents, beginning with the most recent document. This index is included with the response, along with a diskette or electronic attachment, in the following format:

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1. Letter to Audrey Smith, Contracts Manager, General Atomics, from Tony Bradley, Contract Specialist, Oakland Operations Office, dated August 28, 2000, Subject: Hot Cell D&D Waste Disposal Costs, Contract DE-AC03_95SF20798. 1 page (F2000-00788)
- (g) Identifies, using brackets [], any responsive documents on the record index or specific information contained in the responsive documents that should not be released. The appropriate FOIA exemptions or the Privacy Act is cited as justification for withholding such information.
 - (h) Sends the response package to the LM FOIA/PA Contact. The response package includes any responsive documents, the document index, and any forms generated to track request response.
 - (i) Enters updated information into the FOIA/PA request log.
- (3) The LM FOIA/PA Contact, under the guidance of GC, performs a Privacy Act Review quality check.

- (4) The LM FOIA/PA Contact:
 - (a) Creates a letter to the requester, which is sent to the requester along with the responsive documents.
 - (b) Completes LM Form 513.3, Freedom of Information Act/Privacy Act Request for Certification.
 - (c) Makes copies of the response and related forms for the Privacy Act files.
 - (d) Has the action closed in the DOL system.

10. ATTACHMENTS.

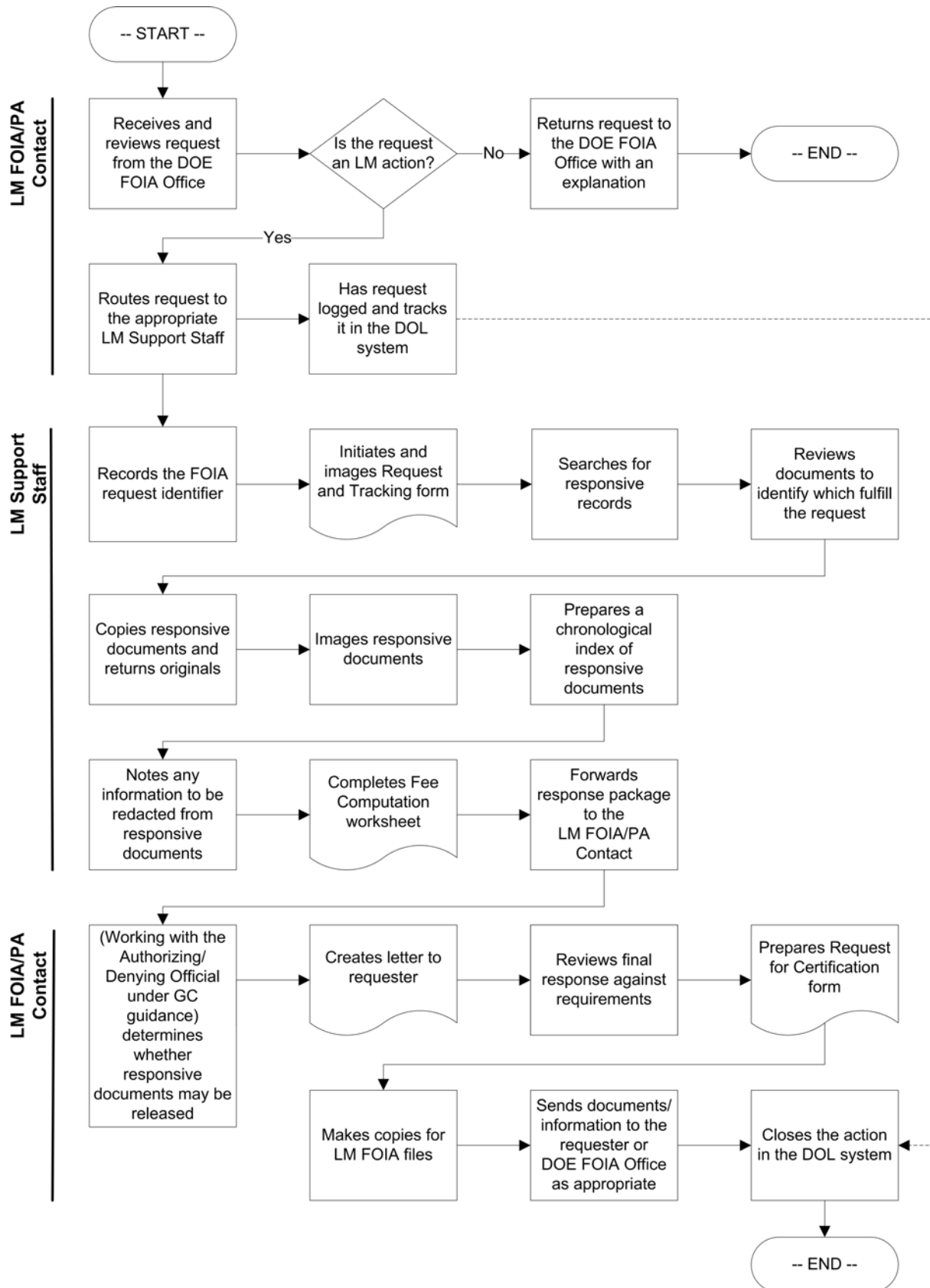
- a. Attachment A. – FOIA Process Flowchart
- b. Attachment B. – Privacy Act Process Flowchart

Approved: Original signed by Celinda H. Crawford
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Approved: Original signed by Tony R. Carter
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Distribution: As required

Attachment A. – FOIA Process Flowchart



Attachment B. – Privacy Act Process Flowchart

